

Sent:

In advance of Monday morning's briefing, attached are some Qs As to help prepare the Director for this short interview with Peter Mansbridge on Monday.

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

AIR INDIA

Last week, the 'Commission of Inquiry into the investigation of the Bombing of Air India Flight 182' released its report with its findings and recommendations. What do you think of the conclusions reach by the Commission of Inquiry?

As you know, the Report strongly criticized the Service regarding certain policies and practices at the time of the bombing in 1985. I think that was unavoidable.

(The Commission's criticisms of the Service focussed on several areas including):

- CSIS and RCMP cooperation;
- erasure of taped intercepts;
- CSIS surveillance of targets;
- the level of CSIS knowledge of the Sikh extremist threat at that time;
- use of intelligence as evidence;
- CSIS operational priorities of the day; and
- Canada's threat assessment infrastructure at prior to the Air India tragedy.

The bombing of Air India Flight 182 was the worst terrorist attack in Canadian history. It was a senseless and barbaric act which cost the lives of 329 innocent people.

It would be naive to claim that no mistakes were made.

CSIS was not even a year old when this tragedy occurred. We weren't fully prepared for something like that at the time. We were still trying to adapt to and implement all the changes resulting from being separated from the RCMP Security Service into a new civilian intelligence agency.

As the Commission stated in its report, "Even in a relatively stable institutional environment, keeping up with the rapidly changing landscape of Sikh extremism in Canada would no doubt have proved challenging. The impact of the transition from the RCMP Security Service to CSIS made a difficult situation that much worse".

To say we were going through 'growing pains' would have been an understatement. There is no doubt the Air India tragedy made CSIS mature very quickly as an organization.

But it is clear that the Service must continue to learn from these past mistakes, as outlined in this important review by the Commission. If we are to continue to implement our mission — to protect Canada's national security interests and the safety of Canadians.

Do you agree with his findings and will you implement them?

- This is a very extensive report, with many findings, recommendations and conclusions. We are closely examining the Report to determine what actions we will need to take as a result.
- We share the views of the Prime Minister and Public Safety Minister, who have already stated that they are taking the Report and its recommendations "very seriously".

How is your relationship with the RCMP today? Some critics say it really hasn't changed much since 1985 and is still problematic. Is that the case?

- The deficiencies in communication and cooperation between CSIS and the RCMP in the 1980s prior to the Air India tragedy came at a time of great transition for both agencies.
- The Commission heard that, after the bombings and during the investigation, there was not always a consistent understanding about what information could or should be shared, and under what restrictions and limitations.
- However, CSIS's relationship with the RCMP has dramatically evolved over the years since the Air India tragedy, becoming more mature, varied, systematic and thus positive.
- As stated in the Report, "there is no doubt that, on a personal and organizational level, relations between CSIS and the RCMP are more cordial at present. The channels of communication are more open and a measure of 'deconfliction' has been achieved."
- There is indeed much more active dialogue between officials at each agency than there was 25 years ago.
- There has also been a cultural shift towards more collaboration between law enforcement and security intelligence agencies in general. The constantly evolving threat environment has led to this increased cooperation not only in Canada but internationally.
- The most tangible evidence of this improved cooperation may be the successful prosecutions of several high-profile counter-terrorism cases in recent years, such as the convictions in the 'Toronto 18' and Momin Khawaja terrorism cases. Without effective inter-agency cooperation, these outcomes would not have been possible.

The RCMP is in fact one of the Service's key partners on national security issues.

The Report talks about a lack of coordination and sharing of information with CSIS on a potential threat from Sikh extremists which could have perhaps aided in assessing the threat at the time. Has this changed?

- The security and intelligence community is much more coordinated than it was in 1985.
- In particular, the creation of the Integrated Threat Assessment Centre (ITAC) has improved the content and dissemination of threat assessments.
- Additionally, advancements in technology have enabled dissemination of information to an increasing number of users. They have also allowed more sources of information to be canvassed in preparation of threat assessments and – most importantly – made possible the dissemination of threat assessments in a much more timely fashion.
- In addition to the ITAC, CSIS – via its Intelligence Assessments Branch (IAB) - produces intelligence assessments with respect to threats to national security, as they are defined in the CSIS Act (s.2), which include terrorism, espionage or sabotage and foreign influenced activities detrimental to Canada.
- CSIS provides a range of products to the Government of Canada and certain allied foreign agencies, including concise analyses of threat-related issues and reports identifying emerging trends or threats having national security implications for Canada.
- We work far more closely on issues related to national security with both domestic and international partners now than we did at that time.

What about the issue of using CSIS intelligence in terrorism cases - do you think we will be seeing more of this now, especially in the wake of the former Justice Major's recommendations on the intelligence-to-evidence dilemma?

- There is no cookie-cutter solution to this question.
- Mr. Major clearly stated in his report - as examples:
 - "Complex and vexing problems can arise when the requirements of the criminal justice system for openness...are confronted by the need for intelligence information to be kept secret for purposes of protecting national security".
 - "The decision of an intelligence agency to share intelligence with the police may have far reaching implications for ongoing intelligence investigations, for the agency sources and for the targets of the investigations".
 - "Valuable intelligence often comes from sources who cannot be revealed publicly without jeopardizing their continuing usefulness and, possibly, their safety".

- "Intelligence agencies resist public disclosure of information due to the realistic fear of compromising the investigation for which it has been collected"
- "Public disclosure, or even limited disclosure to law enforcement, can interfere with sensitive intelligence investigations and even lead to their termination"
- "Compromised investigations may harm Canada's international strategic interests and threaten the safety of individuals involved in intelligence gathering"

However, he also states that "there are situations in which disclosure of intelligence by CSIS to law enforcement is in the public interest". And there are examples where we have done this with success (Toronto 18 trials, Khawaja etc.), so it's not totally new to us.

Indeed, the 'intelligence-to-evidence' issue is one which we continue to assess closely.

In the end, we will all need to ensure the appropriate balance is struck between the essential requirement to protect the sources of information while at the same time seeking to successfully prosecute those who engage in terrorist activity.

Can another attack like Air India happen today?

No security intelligence service can guarantee that a senseless tragedy such as the Air India bombing will never happen again.

No system is 100 % foolproof, as we have seen with the 9/11 attacks and subsequent attacks in Madrid, London, Indonesia and recently in Moscow, to name a few.

There are many, many more terrorist threats then there were in 1985, when intelligence was mostly focussed on Cold War concerns.

However, CSIS has evolved considerably over the past quarter-century and has vastly improved its operational capabilities on many fronts, including:

- Counter-terrorism is now the priority for CSIS. At the time of the Air India incident, 20% of CSIS resources were dedicated to counter-terrorism while 80% were dedicated to counter-intelligence priorities. Those numbers have changed significantly as the majority of resources are now dedicated to counter-terrorism efforts.

As stated, CSIS and the RCMP have a much stronger relationship than was the case in 1985.

- CSIS has also greatly expanded its international role and presence. In 1984, CSIS inherited 162 foreign arrangements with agencies in 107 countries from the former RCMP Security Service. CSIS now has 280 foreign arrangements in approximately 150 countries. This provides much broader access to information on security threats to Canadians which have a nexus abroad.
- Enhanced operational training programs have been implemented over the years, such as more specific operational training courses for intelligence officers which allow them to obtain a broader range of skills.
- These enhancements have strengthened CSIS's operational capabilities, as evidenced in the Service's role in the 'Toronto 18' and Momin Khawaja terrorism cases, among others, which led to successful convictions.
- New legislation, such as the *Anti-Terrorism Act*, help us in that regard. In addition, the Government plans to introduce more pieces of legislation that will further help us and our law enforcement partners to fight terrorism.

I firmly believe that CSIS and its partners are indeed much better prepared to counter terrorist threats than in 1985, and are absolutely committed to seeing that those who plot or commit acts of terror will be successfully prosecuted.

CSIS ROLE IN G8/G20 SUMMIT SECURITY

There have been several reports recently by some individuals claiming they are being unfairly treated or harassed by CSIS 'agents' who are asking them questions about potential protests at the G8/G20 Summits. Is this accurate?

While the RCMP is the lead security agency for events such as the G8/G20 Summits, our role is to advise the government of potential security threats to Canada and Canadian interests.

In this case, CSIS is continuously assessing the potential for violence resulting from the activities of certain groups and individuals leading-up to, during and after the Summits.

It is our job to collect information on potential threats by meeting with individuals who may have information of interest to our mandate.

These interviews are necessary, legal and responsible, and they must continue if we are to effectively carry out our mandate and effectively gauge potential security threats to Canadians.

We are often provided with useful information during such interviews and we are grateful for the assistance from individuals who agree to meet with us. Such cooperation helps us in our role of ensuring Canadians remain safe and secure.

However, some individuals do not want to speak with CSIS and choose to characterize our visits as a violation of their rights.

CSIS respects the rights of all to lawful political dissent and freedom of speech.

As stated in s.2 of the *CSIS Act*, CSIS does not investigate activities constituting "lawful advocacy, protest and dissent", unless such activities are carried out in conjunction with threat-related activities to the security of Canada as defined in the CSIS legislation.

AFGHANISTAN

Recent reports brought to light the role of CSIS in the transfer of detainees to Afghan authorities in Afghanistan? What exactly was that role?

CSIS Role in Afghanistan

CSIS has publicly confirmed that it is present in Afghanistan, and have been there since 2002.

We are there to support the Government of Canada mission in Afghanistan and also to gather intelligence that alerts us to threats against Canada.

CSIS officers have been serving alongside the Canadian Forces and willingly share some of the risks faced by our soldiers.

Our specialized knowledge in several areas of intelligence gathering has proved invaluable to Canada and our allies.

To date, our most important role in Afghanistan has been to gather intelligence that supports and protects Canadian Forces personnel. Our work has saved Canadian lives and has been a little-known but vitally important element in Canada's defence, diplomatic, and development efforts within Afghanistan.

Threats to Canadian national security are expected to continue to originate from Afghanistan and the neighbouring region for some years to come. The region is, and will remain for some time, the epicentre of AQ core leadership and a source of real threats to Canadians.

CSIS Role re. Afghan Detainees

- CSIS did interview a small number of suspected Taliban insurgents captured or in the custody of the Canadian Forces -- approximately 40 or 50.

- These interviews were designed primarily to determine the identities of the individuals. Decisions to transfer suspected Taliban insurgents to Afghan authorities were not made by CSIS.

- In Afghanistan, as in Canada and everywhere else we operate, CSIS personnel are bound in every instance by the law, Ministerial Directives, and internal policies - all of which govern their conduct.

- Our activities are also subject to the complete authorities of the CSIS Inspector General and SIRC to review and report to the Minister and Parliament on what we have done.

- CSIS has not and does not mistreat those it interviews, nor does it assist or counsel others to do so.

Is CSIS aware of the mistreatment or torture of detainees that have been transferred to Afghan authorities?

- While CSIS is aware of media allegations of mistreatment of Afghan detainees, we have no reliable proof of mistreatment or torture of detainees.
- CSIS has not and does not mistreat those it interviews, nor does it assist or counsel others to do so.

There has been a report that CSIS officers in Afghanistan are armed. Is this accurate?

- Yes. CSIS employees may be authorized by me as the Director of CSIS to carry a firearm in dangerous operational environments. This is defined as a geographic sector or region where force may be required for the purpose of self-defence. I think we can all agree that Afghanistan fall under such a definition.
- CSIS personnel in Afghanistan are often required to meet individuals - some who would be described as unfriendly at best - in very dangerous situations while carrying out their work in collecting security intelligence on threats to the Canadian Forces and to Canada which emanate from the region.
- To send CSIS personnel into harm's way in Afghanistan under those particular circumstances, without adequate protection, would be completely irresponsible.
- Prior to carrying a firearm, the employee receives extensive training to become qualified. This firearms certification ensures that the employee has the skills and knowledge to safely carry a firearm.
- CSIS policies provide direction to Service employees on the safe use, control, storage and transportation of firearms and ammunition. Rules of engagement, firearms registration and procedures for a post-incident response are also defined by CSIS policies.
- The following authorities provide direction to the Service's policies: *CSIS Act, Criminal Code, Firearms Act, National Defence Act, Public Access to Information Act* and the Ministerial Direction for Operations.

What does CSIS do in Afghanistan after the Canadian Forces go home?

- I cannot say if CSIS will remain in Afghanistan post-2011, but I can say that the Service will certainly continue to investigate these threats and will remain actively interested in this region.

THREATS TO CANADA

What keeps you up at night? Should Canadians be worried?

- The threat of terrorism keeps me up at night, especially the potential terrorist activity against Canadians or in Canada that we do not yet know about.
- Canadians should not be worried, but they should be realistic.
- Terrorism and extremism remain the number one threat to Canada's national security, and CSIS is steadfast in its efforts to detect, investigate and advise government of these activities. Canada has been specifically targeted by Al-Qaeda's senior leadership.
- Al Qaeda and its affiliate organizations - such as Al Qaeda in the Islamic Maghreb and Al Qaeda in the Arabian Peninsula - remain the priority concern for much of the international community, including Canada.
- In addition to the work that CSIS does to counter the threat that these groups represent to Canada, CSIS also plays an important international role in protecting others from threats emanating from Canada.
- For example, the involvement of Canadian citizens with foreign terrorist organizations, many of them listed as such in the Criminal Code, is a relatively new phenomenon. Some Canadians even play senior roles in such organizations.
- Canada has, I think, an international obligation to work with partners to ensure that our citizens do not plan or execute terrorist acts abroad.
- It may surprise some to hear that CSIS maintains an investigative interest in a disturbing number of Canadian citizens or permanent residents who have traveled abroad to engage in terrorist activities. The suspected whereabouts of these individuals spans the breadth of the globe, involving countries primarily in the Middle East, parts of Africa, and South Asia, but also in Europe and the Americas.
- It is also worth mentioning that the service maintains an active interest in the threat-related activities of a number of non-citizens who have ties to Canada, whether through former residence here or family links.
- "Homegrown" or individual "lone-wolf" terrorists are also difficult to track if they have not previously attracted the interests of law-enforcement or security agencies.

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
"RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION"

- Other threats - such as espionage or sabotage - certainly won't disappear anytime soon.
- State-sponsored espionage against Canada is being conducted at levels equal to or greater than during the Cold War. This includes cyber attacks that have been used in support of state sponsored espionage activity.
- Canadians need to feel secure that the Canadian departments and agencies tasked with working to identify and thwart those threats are doing their utmost to ensure public safety and security.

In your speech to CASIS last year, you seemed to imply that Canadians were naive to the threats we face. Is that the case, and if so, why?

- No, Canadians aren't naive. They read the news and see the turmoil in the world.
- But I also believe that the absence of a major terrorist incident in Canada in a quite a long time may have led to a sense of false security or complacency.
- What I am saying is that terrorism remains a real threat to the safety and security of Canadians - both within Canada and internationally - and that we are not immune from attacks similar to what we have seen happen in the U.S. or in London, Spain, Bali and - just recently - in Moscow, to name a few.
- There may be a sense that what we have seen happen in other countries won't happen here because we're Canadians, we all get along and we're nice people.
- Recent criminal convictions of individuals in Canadian courts on terrorism charges have underscored the reality of terrorist activity within our borders. The conviction of several individuals involved in the 2006 bombing plot in Toronto and the Momin Khawaja case are prime examples of Canadians willing to carry out or assist in violent acts supporting an extremist ideology.
- It's our job to guard Canadian against threats. They should not be unnerved when I actually talk about those threats.

RADICALIZATION

The Toronto and Khawaja cases seemed to suggest that some young Canadians are attracted to some pretty extreme causes. Do we know what causes people to go down this path? Do we know how to stop this kind of radicalization? And do you believe the recent successful convictions in the Toronto 18 cases illustrate that Canada can stop this type of threat?

Well, there are a few ongoing trials in the Toronto 18 cases as well as some appeals so I'm limited as to what I can say on the issue at this time.

However, the successful prosecutions in the 'Toronto 18' and Momin Khawaja terrorism cases, among others, are very indicative of how enhancements (resources, training, legislation) have strengthened CSIS's operational capabilities in countering such threats, as well as our increased cooperation with partners such as the RCMP

Radicalization is a very personal process and has several stages. There is no standard template that applies to everybody.

It often involves 2nd or 3rd generation Canadians, and also includes people raised in the West who adopt the extremist cause.

The radicalization process can be initiated in many legal fora (schools, clubs, places of worship, community centres) making it hard for law enforcement or security agencies to interdict in the initial stages of radicalization.

The internet is a key component of this, as it is used for planning, organizing, and executing terrorist activities, and for recruiting participants. In fact, there are websites based in Canada that support and incite terrorist violence.

Ultimately, radicalized individuals withdraw from public contact or form groups or cells with like-minded individuals (i.e. Toronto 18).

Canadian citizens or residents have been implicated in terrorist attacks and conspiracies elsewhere in the world, and there are Canadian graduates of foreign-based terrorist camps and campaigns.

The possible participation of Canadian citizens or residents in Somalia in support of an organization inspired by the ideology of Al Qaeda is a concern.

This is an international phenomenon which Western countries (the United Kingdom, France and the Netherlands are examples) are seeking to address through various means.

A successful counter-radicalization strategy involves a partnership approach involving all levels of government, community and religious leaders and the media.

We continue to assess the radicalization issue in the hopes of gaining a better understanding as to why and how it occurs.

CSIS also works with various communities in Canada via outreach and liaison programs as part of this assessment. We receive useful information from all segments of Canadian society, and we are grateful for this assistance to help keep all Canadians safe.

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

“PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT”
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

SECURITY CERTIFICATES

The security certificates seem to be falling one by one, and some of the judges have been very critical of how CSIS does its job, saying you have not been rigorous or careful enough. Information has not been disclosed. It seems that some polygraph results have been slanted. As an agency with very intrusive powers, don't you have to do better? Are you careful enough?

Key Messages:

- It is no secret that recent developments in the ongoing security certificate cases have resulted in considerable changes with the way CSIS does business.
- We fully recognize the principles of fairness and transparency that are at the heart of many recent court decisions, and we are complying with those.
- There are, however, broader questions with the security certificates regime.
- For example, having CSIS disclose more and more information has implications for how we do our business and for Canada's national security.
- Canada must maintain the ability to defend itself against individuals who are inadmissible for national security reasons.

Details on Security Certificates:

- There are non-Canadians in this country who are inadmissible and who pose a risk to national security, but who cannot be criminally prosecuted - often because much of the intelligence against them cannot be easily converted into courtroom evidence.

- In addition, CSIS often cannot reveal in open court information shared with us in confidence by another country.

- If we publicly identify sources, it would severely limit the amount we would receive in the future on threats to Canada and severely hamper our ability to do our job. We cannot operate in isolation.

- We also can't reveal information that would reveal a source's identity or an intelligence gathering method.

- Former Justice O'Connor himself stated that "*It is necessary to protect the identity of sources and to respect the conditions imposed on the sharing of information from foreign agencies to ensure the continued flow of such information*". (O'Connor's Report on Arar).

- Furthermore, Justice Iacobucci stated during his inquiry that "*Human lives are often at risk when individuals serve our country's security and intelligence efforts, and a breach of confidentiality could have serious repercussions for those individuals that all of us would wish to avoid.*"

- Greater transparency in this area quite literally means that human sources will be less willing to cooperate with CSIS, and that technical sources, which can take years to develop – often at great financial costs – may be rendered useless.

- These challenges are not unique to Canada. The UK is facing similar pressures with "control orders," which allow the Government to place terrorism suspects under close supervision with strict conditions placed on their movement - essentially "house arrest."

Do you think CSIS will ever support another security certificate? Have they run their course? What other options would you have?

- As stated by the former Minister of Public Safety (Peter Van Loan, December 2009), the Government of Canada is reviewing the existing security certificate process and will make its conclusions once that review is complete.

- However, we firmly believe that there needs to be a strong system in place allowing Canada to deport individuals who come here with the intent of undertaking or supporting activities which are a threat to the security of our country.

- It's important to note that, since 1991, only 27 individuals have been subject to Security Certificate proceedings. This clearly shows that they are used judiciously and only in very serious cases.

- While the courts have ruled some certificates as not being reasonable and have quashed the

cases, the process has also been used successfully in the past (examples: Paul William Hampel, Ernst Zundel).

If asked how the quashing of Certificates in the cases of Charkaoui and Ahmed will impact on the three remaining cases:

- It would be inappropriate to speculate on the potential outcome of those ongoing cases as they remain before the courts, while civil suits have been launched in the ones you have mentioned.
- Those individuals have been deemed to be inadmissible for reasons of national security, violating human or international rights, or involvement in organized or serious crimes.
- Individuals can and do exercise their right to pursue appeals of removal decisions made against them through the courts.
- The judge will rule if a certificate is "reasonable" or not, and the defendant or the Government can elect to appeal that decision. This is how it works in a democratic and lawful country and CSIS certainly abides by that process.

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
" RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION "

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
" RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION "

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
" RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION "

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

LAWSUITS

You are being sued by a great number of people – Charkaoui, El Maati, Nureddin, Almalki, Abdelrazik – and others. Why are there so many lawsuits? Is it hard to operate in such an environment?

Well, I'm limited to what I can say on that front because of those ongoing civil litigation cases. And as you know, CSIS isn't the only Government body being sued in those cases.

As stated, the shift in the legal environment over the past few years has been a major challenge for our organization as it involves policy changes, evolution in our training, and hard decisions on where to devote precious resources.

So yes, it is a difficult environment in which to operate. But we are used to difficult environments.

We have reacted and will continue to respond to various inquiries and the ongoing review of our activities by SIRO and the Inspector General.

It is also clear that we must adapt to meet the requirements of the courts.

However, we cannot lose sight of our primary mandate – to collect information on threats to Canada and Canadians and inform the government of those threats.

Did CSIS try to get Mr. Abdelrazik detained or mistreated in the Sudan?

As stated by my predecessor, CSIS does not and has not arranged for the arrest of any Canadian citizen abroad.

In the case of Mr. Abdelrazik, CSIS reiterates that it acted in accordance with the *CSIS Act*, Canadian law and policy.

It wouldn't be appropriate to comment further on Mr. Abdelrazik's case due to the ongoing civil litigation before the courts.

CSIS AND HUMAN RIGHTS

Some have interpreted various recent legal rulings as proof that CSIS is, in fact, oblivious to human rights? Is this true?

Absolutely not. It is, in fact, quite the opposite. CSIS respects human rights and due process.

CSIS employees are also Canadians. They also expect the Service to respect Canada's rule of law and our Canadian values.

The clear directive to all CSIS employees is that the Service does not countenance the mistreatment of any individuals to collect information, and our interactions with foreign agencies must accord with this principle.

It is not, however, a black and white world out there. We have to work in situations in which we must make difficult decisions. Our overall mandate is very clear, but the various commissions of inquiry, court decisions and new instructions from government are clarifying what we can or should do in various situations.

Last year, a CSIS official told a Parliamentary Committee that CSIS would in some circumstances knowingly use information derived from torture. He then recanted after he was corrected by your predecessor, Jim Judd. Where do you stand on this issue?

My predecessor said in public forum before that he considered the practice of torture "morally repugnant." I could not agree more, and I should go without saying that the Service has never condoned torture and finds it abhorrent.

What if it's not possible to tell if information came from torture or not? Would you use it? Have you ever used it?

- To be clear, CSIS will follow up on any and all leads related to an imminent threat to Canada or Canadian interests. We would be remiss in our duties if we did not.
- Canadians would not forgive us if we completely ignored information that could have been further assessed and collaborated to investigate and prevent a terrorist attack because that information came from a country with a suspect human rights reputation.
- We will share that information with relevant authorities such as the police, as necessary and properly described, even in the rare and extreme circumstance that we have some doubt as to the manner in which the foreign agency acquired it.
- We will also share information about imminent threats to allied or foreign interests with the appropriate foreign agencies, after making the necessary efforts to ensure it will be used appropriately by the receiving agency.
- Such efforts could include meeting with the relevant agency beforehand to receive assurances, and attaching written caveats to the message to clearly state the Service's assessment of the information, and the purposes for which it is, and is not, being shared.
- Such decisions, always informed by advice from Department of Justice, are highly controlled within CSIS, with senior executive-level approval required to act upon any information where doubts exist about its provenance.
- Although such information would never be admissible in Court, it is generally accepted internationally that even if it cannot use information provided by mistreatment to *prosecute* an individual posing an imminent threat, the Government must nevertheless make use of the information to attempt to *disrupt* that threat before it materializes.

How does CSIS define torture?

CSIS uses the same definition of torture that is used in Canadian law (such as the Criminal Code and our Charter of Rights) and in international agreements such as the UN Convention on Torture and the Geneva Conventions.

Excerpts from Various Agreements:

- "Acts by which severe pain or suffering is inflicted on an individual by a public official, or at the instigation, with the consent or with the acquiescence of a public official" (Article 1, UN Convention Against Torture)";
- "Violence to life and person, including murder of all kinds, mutilation, cruel treatment and torture" (Article 3, Fourth Geneva Convention);
- the right to "life, liberty and security of the person" (Section 7 Charter of Rights and Freedoms) (likely includes the right not to be subjected to torture);
- the right "not to be subjected to cruel and unusual treatment or punishment" (Section 12 - Charter of Rights and Freedoms)
- "Every person acting at the instigation of or with the consent or acquiescence of an official, who inflicts torture on any other person is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years" (Section 269.1 - Criminal Code).

What would you say to Canadians who have great misgivings about your agency's relationships with counterpart agencies in countries that have very poor human rights records?

- Intelligence sharing with foreign agencies is essential to CSIS's mandate to collect information related to threats to Canada.
- The threats to Canada are mostly from outside Canada. We can't unilaterally disarm, or put up a firewall around our country. To protect our citizens, we have to share information with international partners.
- Information sharing with foreign agencies is vital to safeguarding Canada's national security. It allows us to collect timely and accurate intelligence that might otherwise not be available to CSIS.
- Canada also has a duty to share information in combating terrorism and threats to public safety with its international counterparts. This requirement is recognized by the United Nations.

- SIRC has acknowledged that CSIS "must rely on information received from its foreign partners to fulfill its mandate". (SIRC 2004/05 Annual Report).
- Canada is part of the world. We have close links with numerous countries – diplomatic, commercial and cultural. Intelligence is part of this globalization.
- We must share information because, simply, the people who threaten us are not couch potatoes. They move.

Further Details on Rules for Sharing of Information:

- All information exchanges with foreign agencies must: provide accurate and balanced information; describe threats and individuals in a manner that is properly qualified; bear the appropriate caveat, and be documented.
- In that context, the Director of CSIS received Ministerial Direction on 'Information-Sharing with Foreign Agencies' in May 2008.
- Furthermore, in November 2008, the CSIS Deputy Director of Operations issued a directive entitled 'Information-Sharing with Agencies with Poor Human Rights Records' to formalize these important principles in the context of sharing information with agencies that have poor human rights records.
- This directive clarifies the exact process to be followed when exchanges with such agencies may be required. The directive is very clear.
- All information exchanges with foreign agencies must provide accurate and balanced information and describe threats and individuals in a fair and precise manner.
- Such information shared with foreign agencies must also be subject to careful conditions, or caveats, and be properly documented.
- When sharing or seeking information from a foreign agency, employees must consider the human rights records of that agency and country. They must ensure that the exchange will not result in the mistreatment of an individual.
- To help ensure that information provided by CSIS to a foreign agency is not interpreted as condoning torture, CSIS also attaches written caveats to its exchanges.
- The caveats state that any action taken by the receiving party as a result of the information be respectful of due process and be consistent with international law.

The caveats further state that if a Canadian citizen is affected by the exchange, CSIS expects that he will be afforded access to Canadian diplomatic personnel if requested, and that the information provided by CSIS is not to be relied upon to detain or prosecute the individual without prior formal consultation with CSIS.

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
"RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION"

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
"RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION"

OMAR KHADR

Do believe Omar Khadr should be repatriated to Canada?

This is not for CSIS to say either way. This is not our mandate. Our mandate is to collect intelligence on security threats to Canada and Canadians.

That is a question for the Department of Foreign Affairs and the Government as a whole.

Was it a mistake to interview Omar Khadr in Guantanamo, given his circumstances?

CSIS has a duty to investigate potential threats to the security of Canada and its interests, and advise the Government of Canada of such threats.

Omar Khadr was questioned by CSIS about individuals - including those linked to the Al

Qaeda organization - who may pose a threat to the security of Canada.

CSIS is not prohibited by law or policies from interviewing a young person, although we certainly make special considerations when dealing with persons under the age of 18. We are also guided in such instances by our own internal policies and - more recently - by a specific Ministerial Directive to ensure that proper care is taken in such circumstances.

Omar Khadr was clearly emotional during segments of his interviews with CSIS. However, CSIS officials acted appropriately and professionally during their entire contact with him and this is apparent throughout the entire 7.5 hour video of Omar Khadr's interviews with CSIS.

Furthermore, while CSIS was aware of media allegations of mistreatment of Guantanamo detainees, we had no reliable proof that Omar Khadr had been mistreated prior to interviews with him.

(If asked about the sleep deprivation / 'frequent flyer' allegations):

Some media outlets have claimed that Mr. Khadr had been mistreated by U.S. authorities - including via sleep deprivation - prior to those 2003 interviews with CSIS. As we have stated publicly on several occasions, this is simply not accurate.

In fact, as we've stated repeatedly, CSIS had no information to substantiate claims that Mr. Khadr was being mistreated by U.S. authorities in conjunction with the CSIS interviews in 2003.

CSIS had no information to substantiate the claims later made by Omar Khadr during some of the interviews that he had been mistreated, and the allegations of sleep deprivation (or what has been referred to in the media as the 'frequent flyer program') were in relation to a 2004 interview in Guantanamo Bay with Mr. Khadr, an interview in which CSIS was not a participant.

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

"PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT"
« RÉVISÉ EN VERTU DE LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

SECRECy & ATIPs

We all know that CSIS has to be secretive, that's your stock in trade. But sometimes it seems that you are too secretive, too stubborn. Even Mr. Major, in the Air India Report, spoke of a penchant for being "over-zealous" in redacting documents or citing national security concerns as a reason to not release documents.

Why, for example, are you in court trying to withhold information about surveillance on Tommy Douglas? And why was a man of his stature and contribution to Canada under surveillance in the first place?

As you are aware, the issue of the Tommy Douglas files remains before the court so I am limited in what I can say publicly at this point.

Between 1920 and 1984, security intelligence in Canada was part of the mandate of the

former RCMP Security Service.

It's not for CSIS to say why Tommy Douglas was under surveillance many years ago. It was a different world then, a Cold War world, and the thinking was very different.

We inherited the RCMP's security files, and some of them, including those of Mr. Douglas, were turned over to Library and Archives Canada because of their historical value.

The vast majority of the information in those files has been released by Library and Archives.

Some information was not disclosed due in order to protect sources, operational methodologies, identities of some employees. We cannot pick and choose which laws to obey. The rules and regulations apply to all Access-to-releases.

This is a legal requirement, and also what those individuals and their families would expect.

There to no solid reason to break agreements made with people who thought their anonymity would be protected.

Journalists, for example, protect sources. Many professions protect information, such as lawyers, doctors, clergymen, etc.

The decision to withhold certain information from disclosure was reviewed and upheld by the Information Commissioner of Canada.

The *CSIS Act* strictly limits the type of activity that CSIS can investigate and the methods by which information can be collected.

The *CSIS Act* prohibits the Service from investigating acts of lawful advocacy, protest, or dissent - we may only investigate these types of acts if they are directly linked to threats to Canada's national security.